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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,013	09/22/2003	Gary Law	06005/39574	1912
4743	7590	04/07/2005	EXAMINER	
MARSHALL, GERSTEIN & BORUN LLP 6300 SEARS TOWER 233 S. WACKER DRIVE CHICAGO, IL 60606			RAYMOND, EDWARD	
			ART UNIT	PAPER NUMBER
			2857	

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/668,013	LAW ET AL.
	Examiner	Art Unit
	Edward Raymond	2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 25 October 2004.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-44 is/are pending in the application.  
 4a) Of the above claim(s) 14-44 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-4 and 9 is/are rejected.  
 7) Claim(s) 5-8 and 10-13 is/are objected to.  
 8) Claim(s) 14-44 are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 22 September 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 20041025.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. **Claims 1-13**, drawn to a function block entity for use in a process environment, classified in class 702, subclass 108.
- II. **Claims 14-44**, drawn to a process control system for use in a process environment, classified in class 700, subclass 21.

The inventions are distinct, each from the other because of the following reasons:

2. **Inventions I and II** are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the function block entity for use in a process environment does not require the limitation of a controller coupled to the field device through the communication link to perform its function. The subcombination has separate utility such as a process control system in a manufacturing environment.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. A telephone call was made to Roger A. Hepperman on April 3, 2005 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

The Examiner examined the subject matter of claims 1-13, because the subject matter is classified in the Examiner's art, 702/108.

The subject matter of claims 14-44 has been withdrawn since it is classified in an area outside of the Examiner's art.

The Applicant must cancel the non-elected claims in order to place the application in condition for allowance when allowable subject matter has been determined.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 1-4 and 9** are rejected under 35 U.S.C. 102(b) as being anticipated by Havekost et al.

Havekost et al. teach a function block entity for use in a process environment (Claim 1: see col. 5, lines 23-25) having a processor communicatively coupled to control one or more field devices (Claim 1: see Figure 1B: CPU), at least one of which is configurable to be set into a plurality of different configuration states including a normal operating configuration state and at least one non-normal operating configuration state, the function block entity comprising (Claim 1: see col. 3, lines 40-54): a computer readable medium (Claim 1: see col. 5, lines 44-52); and a function block stored on the computer readable medium and adapted to be executed on the processor (Claim 1: see col. 6, lines 17-23), the function block including; an input adapted to receive an input signal from within the process environment indicating a configuration state of at least one of the field devices (Claim 1: see col. 7, lines 1-4); a detection unit coupled to the input that detects when the at least one of the field devices is in a non-normal operating configuration state (Claim 1: see col. 17, lines 24-35); and inhibit logic that automatically produces an inhibit signal when the at least one of the field devices is in a non-normal operating configuration state to inhibit the use of a further signal from the at least one of the field devices (Claim 1: see col. 22, lines 46-52, col. 23, lines 49-66, and also col. 41, lines 7-20: The Examiner notes that the control module has the ability to affect the functionality of the process environment, which is equivalent to an inhibiting logic).

Havekost et al. teach a function block entity wherein the inhibit logic produces a bypass signal for bypassing the use of the further signal from the at least one of the field devices (Claim 2: see col. 27, lines 36-45).

Havekost et al. teach a function block wherein the inhibit logic produces an override signal for overriding a decision made using the further signal from the at least one of the field devices (Claim 3: see col. 41, lines 1-3).

Havekost et al. teach a function block entity wherein the function block includes a second input for receiving the further signal from the at least one of the field devices (Claim 4: see Figure 5: Devices 552).

Havekost et al. teach a function block entity wherein the input is adapted to receive an input signal conforming to the HART communication protocol (Claim 9: see col. 26, lines 61-62).

***Allowable Subject Matter***

8. **Claims 5-8 and 10-13** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Contact Information***

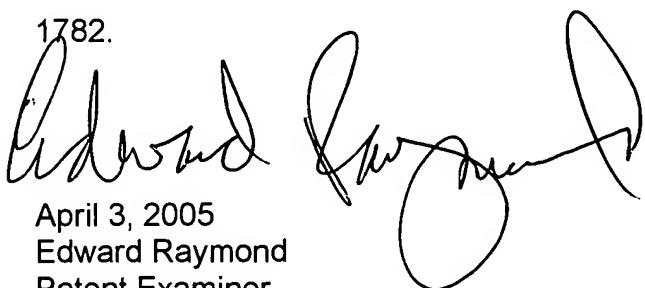
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Raymond whose telephone number is 571-272-2221. The examiner can normally be reached on Monday through alternating Friday between 8:00 AM and 5:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 571-272-2216. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-2221 for regular communications and 571-272-1562 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-

1782.

A handwritten signature in black ink, appearing to read "Edward Raymond".

April 3, 2005  
Edward Raymond  
Patent Examiner  
Art Unit 2857